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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FEDERAL DEPOSIT INSURANCE CORP.,
Plaintiff,

- against -

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

ORDER
09-CV-2704 (TCP) (WDW)

TROYDEN SARGEANT, ★ DEC 06 2012 ★
Defendants.

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LONG ISLAND OFFICE

PLATT, District Judge.

Before the Court is a Report and Recommendation (“R&R”) from Magistrate Judge Wall in the above-named action. *See* ECF No. 14.

Magistrate Judge Wall’s R&R, filed on November 15, 2012, recommended this Court dismiss Plaintiff’s case due to Plaintiff’s failure to prosecute. *See* R&R at 1. As Magistrate Judge Wall stated, this Court has the authority under Rule 41(b) to dismiss Plaintiff’s case “ ‘for failure to comply with a court order, treating noncompliance as a failure to prosecute.’ ” *Id.* (quoting *Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995)).

Magistrate Judge Wall issued an Order for Written Status Report on March 20, 2012 (ECF No. 10); Plaintiff failed to comply with this order. On October 22, 2012—seven months after Magistrate Judge Wall’s initial Order—Magistrate Judge Wall issued another Status Report Order (ECF No. 13) and, as stated, “expressly warned that ‘failure to respond to this order within ten days will result in a [R&R] to the District Court Judge that the case be dismissed for failure to prosecute.’ ” R&R at 1 (quoting Status Report Order). Plaintiff failed to comply with this order. Pursuant to 28 U.S.C. § 631(b)(1), the R&R noted Plaintiff had fourteen (14) days to file an objection; Plaintiff failed to do so. Accordingly, Petitioner waived the right to object to the

Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir.1992); *see also Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir.2008).

The Court **ADOPTS** Magistrate Judge Wall's R&R. The Court **DISMISSES** Plaintiff's case.

SO ORDERED.

/s/ Thomas C. Platt

Thomas C. Platt, U.S.D.J.

Dated: December 6th, 2012
Central Islip, New York